

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA
LAFAYETTE DIVISION**

TERRY L. BURTON, NATHAN)
BURTON, AQUARIUS POOLS, INC.,)
BURTON POOLS, LLC, BURTON)
PROPERTIES, NTB, INC, NTB, INC)
d/b/a BLAZIN TAILS,)
)
Plaintiffs,)
)
v.) State Court Case No. 79D02-1709-CT-000154
)
HARLEYSVILLE INSURANCE d/b/a)
NATIONWIDE INSURANCE,)
)
Defendant.)

NOTICE OF REMOVAL

TO: THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF INDIANA, LAFAYETTE DIVISION

Now Comes Harleysville Lake States Insurance Company (“Harleysville”), incorrectly sued as Harleysville Insurance d/b/a Nationwide Insurance, by and through its attorneys, and respectfully submit this Notice of Removal of the above-captioned cause from the Superior Court of Tippecanoe County, State of Indiana, to the United States District Court for the Northern District of Indiana, Lafayette Division, pursuant to 28 U.S.C. § 1332 and § 1441, and state as follows:

1. This action is being removed to federal court based upon the following federal jurisdictional base: diversity of citizenship under 28 U.S.C. § 1332.
2. On September 25, 2017, Terry L. Burton, et al., (“Plaintiffs”) filed in the Superior Court of Tippecanoe County, State of Indiana, the above-captioned civil action, case no. 79D02-1709-CT-000154, in the records and files of that Court.

3. The United States District Court for the Northern District of Indiana, Lafayette Division, has original jurisdiction over this matter pursuant 28 U.S.C. § 1332 and is one that may be removed by Harleysville pursuant to 28 U.S.C. § 1441(a).

4. This Court has subject matter jurisdiction over this matter because this is an action between citizens of different states and the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs.

5. Plaintiff Terry L. Burton is a natural person who resides in the State of Indiana. Plaintiff Nathan Burton is a natural person who resides in the State of Indiana. Plaintiff Aquarius Pools Inc. is a corporation incorporated in the State of Indiana and has its principal place of business in the State of Indiana. Plaintiff Burton Pools LLC is a limited liability company incorporated in the State of Indiana and has its principal place of business in the State of Indiana. Burton Pools LLC's members are Nathan A. Burton and Terry Burton. Nathan A. Burton and Terry Burton are natural persons who reside in the State of Indiana. Plaintiff Burton Properties LLC is a limited liability company incorporated in the State of Indiana and has its principal place of business in the State of Indiana. Burton Properties LLC's member is Nathan Burton. Nathan Burton is a natural person who resides in the State of Indiana. Plaintiff NTB Inc. is a corporation incorporated in the State of Indiana and has its principal place of business in the State of Indiana. All plaintiffs are citizens of the State of Indiana.

6. Harleysville Lake States Insurance Company is the party identified in the exhibit to Plaintiffs' complaint as the company which issued the policy of insurance on which Plaintiffs' suit is brought. Harleysville Lake States Insurance Company is a corporation incorporated in the State of Michigan and has its principal place of business in the State of Pennsylvania. Harleysville Lake States Insurance Company is a citizen of the States of Michigan and

Pennsylvania. Plaintiffs brought suit against “Harleysville Insurance d/b/a Nationwide Insurance.” Harleysville Insurance Company is a corporation incorporated in the State of Pennsylvania and has its principal place of business in the State of Pennsylvania. Harleysville Insurance Company is a citizen of the State of Pennsylvania. Nationwide Mutual Insurance Company is a corporation incorporated in the State of Ohio and has its principal place of business in the State of Ohio. Nationwide Mutual Insurance Company is a citizen of the State of Ohio.

7. Plaintiffs seek damages in excess of \$75,000.

8. This action is therefore one of which the United States District Court for the Northern District of Indiana, Lafayette Division, has diversity of citizenship jurisdiction under 28 U.S.C. § 1332 and § 1441(a) and this action may be removed by this Court by petitioner pursuant to 28 U.S.C. § 1441(a).

9. This petition is being filed pursuant to 28 U.S.C. § 1446 within thirty (30) days of service of the initial pleading upon Harleysville in which a removable claim is asserted, and is removable in that the time for filing this petition under 28 U.S.C. § 1446 has not expired. Harleysville was served with the original complaint on September 27, 2017.

10. Therefore, Harleysville Lake States Insurance Company, incorrectly sued as Harleysville Insurance d/b/a Nationwide Insurance, files this Notice of Removal of this action from the Superior Court of Tippecanoe County, State of Indiana, in which it is now pending, to the United States District Court for the Northern District of Indiana, Lafayette Division. There are attached to this notice and incorporated by reference, true and correct copies of all process, pleadings, and orders, if any, served upon defendants in this action.

Respectfully Submitted,

Attorneys for Harleysville Lake States Insurance Company,
incorrectly sued as Harleysville Insurance d/b/a Nationwide Insurance

By: /s/ John J. Piegore

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CERTIFICATE OF SERVICE

I hereby certify that on October 6, 2017, the foregoing was served via e-mail and regular mail to the attorney(s) listed below:

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By: /s/ John J. Piegore